

O I P E FEB 02 2005
IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Arthur S. HARKIN et al.

Confirmation No.: 9431

Application No.: 09/916,101

Examiner: Jeffrey Swaringen

Filing Date: 07/25/2001

Group Art Unit: 2145

Title: Tiered Web Site With Web-Tier Admission Control Based On Utilization Data Generated
On Application Tier

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

(X) Response/Amendment	() Petition to extend time to respond
() New fee as calculated below	() Supplemental Declaration
() No additional fee	
(X) Other: Replacement Drawings, Substitute Specification(s)	(fee \$ _____)

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS	12	MINUS	20	= 0	X \$50	\$ 0
INDEP. CLAIMS	3	MINUS	3	= 0	X \$200	\$ 0
[] FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM						+ \$360 \$ 0
EXTENSION FEE	1ST MONTH \$120.00	2ND MONTH \$450.00	3RD MONTH \$1020.00	4TH MONTH \$1590.00		\$ 0
OTHER FEES						\$
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$ 0 to Deposit Account 08-2025. At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450.

Respectfully submitted,

Arthur S. HARKIN et al.

By



Clifton L. Anderson

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Date of Deposit: 1-31-2005

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Signature: 

Date: 1-31-2005



In The United States Patent and Trademark Office

For:

TIERED WEB SITE WITH WEB-TIER ADMISSION CONTROL BASED ON UTILIZATION DATA GENERATED ON APPLICATION TIER

Applicant: Arthur S. Harkin et al.	Attorney Docket No.: 10006843-1		
Serial No.: 09/916,101 (8431)	Filed: July 25, 2001	Art Unit: 2145	Examiner: Jeffrey R. Swearingen

Honorable Commissioner of Patents
Washington, DC 20231

Amendment A

Sir:

This is a response to the Office Action dated November 4, 2004. Amendments to the Specification are presented in a revision-format Substitute Specification. A "clean" copy of the Substitute Specification is also provided. Amendments to the drawings are presented in the form of replacement sheets of drawings. No new matter has been added either to the Specification or to the drawings. The claims are not amended. Reconsideration is respectfully requested.

Applicant thanks the Examiner for finding and correcting the mistake in the Patent Number on the information disclosure statement.

Replacement sheets of drawings have been provided. Most of the objections to the drawings have been handled by revising the Specification. However, there were some informalities that required correction and the total number of pages had to be changed in view of the cancellation of Fig. 4.

The Specification has been changed to omit references to FIG. 4. Reference is now made to an “alternative host site” that happens to not be illustrated. The Specification now refers to items R3 and S8. “25” now consistently refers to an encrypt/decrypt function; “27” now consistently refers to a client-request processor; and “29” consistently refers to a deferral manager.

The Office Action rejects Claim 1 for anticipation by U.S. Patent No. 6,055,564 to Phaal, “Phaal” herein. This rejection is traversed.

Claim 1 requires resource utilization to be generated on an application tier and admissions control to be performed on a client-response tier. The Office Action states in item 10: “Because the resource monitor and admission control gateway operate independently of each other, Examiner considers them to be in different tiers.”

However, it is the definition of “tier” as used in the Specification that is controlling. In particular, the first sentence of paragraph 19 of the Specification (page 6, lines 21-23) reads: The host site has distinct client-response and application tiers in that each host-site server is assigned to at most one of the tiers.” Thus, Claim 1, when read in light of this definition, requires resource utilization data to be generated on a server that is used as an application server and is not otherwise used for admissions control.

Phaal does not teach that resource utilization data is generated on an application server that does not otherwise perform admissions control. Accordingly, Phaal does not teach that the resource utilization data used by the admissions control tier is generated on an application tier. Thus, Phaal does not anticipate the invention as defined in Claim 1.

All other rejections for anticipation and obviousness assume the correctness of the rejection of Claim 1. Since this rejection is in error, so are the rejections of the remaining Claims 2-12. Accordingly, all the prior-art rejections are traversed.

CONCLUSION

All objections to the drawings and specification have been addressed in the Substitute Specification and Replacement Sheets of Drawings. The prior-art rejections have been traversed as they were based on a definition of "tier" that failed to take into account the use of "tier" in the Specification. Accordingly, it is respectfully submitted that the Application is in condition for allowance, which allowance is respectfully requested.

Respectfully submitted



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